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7 Attorneys for Defendant, COUNTY OF SAN BERNARDINO,  
8 ROBERT VACCARI, and JAKE ADAMS

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 L.C., a minor by and through her  
12 guardian *ad litem* Maria Cadena,  
13 individually and as successor-in-interest  
14 to Hector Puga; I.H., a minor by and  
15 through his guardian *ad litem* Jasmine  
16 Hernandez, individually and as  
17 successor-in-interest to Hector Puga;  
A.L., a minor by and through her  
guardian *ad litem* Lydia Lopez,  
individually and as successor-in-interest  
to Hector Puga; and ANTONIA  
SALAS UBALDO, individually,

18 Plaintiffs,

19 vs.

20 STATE OF CALIFORNIA; COUNTY  
21 OF SAN BERNARDINO; S.S.C., a  
22 nominal defendant; ISIAH KEE;  
23 MICHAEL BLACKWOOD;  
24 BERNARDO RUBALCAVA;  
ROBERT VACCARI; JAKE ADAMS;  
and DOES 6-10, inclusive,

25 Defendants.

CASE NO. 5:22-cv-00949-KK-(SHKx)

*Assigned for All Purposes to:*  
*Hon. Kenly K. Kato – Courtroom 3*

**COUNTY DEFENDANTS’  
OPPOSITION TO PLAINTIFF’S  
MOTION IN LIMINE NO. 4 TO  
PRECLUDE CERTAIN OPINIONS  
AND TESTIMONY OF  
DEFENDANTS’ POLICE  
PRACTICES EXPERT KEN HUBBS**

Date: May 15, 2025  
Time: 10:30 a.m.  
Crtrm: 3

*Trial Date: June 2, 2025*

*Complaint filed: 06/07/2022*  
*FAC filed: 10/18/22*  
*SAC filed: 01/13/23*  
*TAC filed: 05/12/23*

1       **I.       INTRODUCTION**

2       Plaintiffs' Motion in Limine No. 4 seeks to exclude certain opinions and testimony  
3 by police practices expert Greg Meyer and Ken Hubbs. Expert Meyer was retained  
4 by the CHP defendants to address the claims against them and therefore the County  
5 Defendants take no position on this Motion as it pertains to Mr. Meyer and will defer  
6 to the CHP on such issues.

7       Expert Hubbs was retained as a police practices expert to provide opinions  
8 regarding the actions of the County Defendants. Importantly, Plaintiffs do not  
9 challenge Expert Hubbs qualifications to serve in this capacity and have limited their  
10 Motion to a few narrow issues to which the County Defendants respond herein.

11       **II.       SUICIDE BY COP OPINION THROUGH EXPERT HUBBS**

12       County Defendants will stipulate not to offer the opinion through Mr. Hubbs that  
13 "Mr. Puga's actions on the date of the incident, and on the prior March 2015 incident  
14 with law enforcement are consistent with the actions of a person attempting to commit  
15 suicide by cop." (Opp. pg 4). Defendants dispute Plaintiffs' contention that Expert  
16 Hubbs is not qualified to state this opinion as a law enforcement officer trained on the  
17 subject. However, Plaintiffs are correct that Defendants have retained a forensic  
18 psychologist, Dr. Kris Mohandie, for this purpose and they do not intend to offer  
19 duplicative testimony on the subject of "suicide by cop."

20       **III.       NUMBER OF ROUNDS FIRED BY PUGA THROUGH EXPERT**  
21       **HUBBS**

22       County Defendants will stipulate that Expert Hubbs will not offer the opinion that  
23 "It is conceivable that Puga may have fired as many as five rounds." Again,  
24 Defendants have retained ballistics expert, Lucien Haag, who is not being challenged,  
25 to opine as to the number of shots fired by Mr. Puga.

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#### 1 || IV. OTHER OPINIONS BY EXPERT HUBBS

2           Plaintiffs next seek to exclude any opinions by Expert Hubbs that Puga was  
3 attempting to get into a position where he could ambush and/or shoot at the officers  
4 solely on the grounds that Plaintiffs allege Expert Hubbs is making a credibility  
5 determination because this theory is disputed.

Defendants agree that credibility determinations are within the province of the jury. However, Expert Hubbs should be permitted to testify that a reasonably trained police officer following standard practices and procedures would view Mr. Puga's actions, including moving from a position of the vehicle, as an escalation where Mr. Puga now had the advantage. Such testimony assists the trier of fact in understanding why Mr. Puga's actions in moving where he did, required the Defendants to now move in and apprehend Mr. Puga. Further, Plaintiffs' expert, Roger Clark will offer the opinion that "the situation did not call for an urgent response at the time the officers approached Mr. Puga." (Gustafson Decl. ¶2, Exhibit 1 – Opinion 6). Defendants therefore must be able to offer testimony through their respective police practices expert to counter this opinion by explaining why training and experience absolutely required immediate action once Mr. Puga changed positions based upon what that move under the totality of the circumstances would signal to a trained law enforcement officer. Even Clark agreed at his deposition that when Mr. Puga moved to the front of the vehicle, he now had a "tactical" advantage. (Gustafson Decl. ¶3, Exhibit 2- Clark Depo).

Hence, Expert Hubbs' opinion is not a credibility determination, but rather a review of the actions of Mr. Puga through the lens of how they would reasonably be interpreted by one with law enforcement training. Because Expert Hubbs' testimony is rooted in his specialized law enforcement training and experience, offering the jury valuable insight into how Mr. Puga's actions would be perceived by a reasonably trained officer, this opinion is crucial for understanding the Defendants' decision-

1 making and actions during the incident. As such, excluding Expert Hubbs' testimony  
2 as requested in Plaintiffs' Motion in Limine No. 4, would deprive the jury of pertinent  
3 information that would aid in assessing Defendants' response to Mr. Puga's actions  
4 under the circumstances.

5  
6 DATED: April 24, 2025

**LYNBERG & WATKINS**  
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8  
9 By: /s/ Shannon L. Gustafson  
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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for County Defendants, certifies that this brief contains 658 words, which:

☐ complies with the word limit of L.R. 11-6.1.

☐ complies with the word limit set by court order dated \_\_\_\_\_.

DATED: April 24, 2025

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